

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Russell Geissler, #349604,)
Plaintiff,) C/A No. 4:17-236-MBS-TER
vs.)
Lisa Young, et al.,)
Defendant.)

)

O R D E R

Plaintiff Russell Geissler filed this action on January 25, 2017, alleging that his constitutional rights had been violated in various respects. See 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers, III for pretrial handling.

This matter is before the court on Plaintiff's "Motion to Dismiss a Defendant," which motion was filed on June 30, 2017. Plaintiff informs the court that he "wish[es] to allow Defendant Bryan P. Sterling to not be prosecuted." ECF No. 79. On July 20, 2017, the Magistrate Judge issued a Report and Recommendation in which he construed Plaintiff's motion as a voluntary dismissal, and recommended that the court grant Plaintiff's motion. In the alternative, the Magistrate Judge addressed the merits of Plaintiff's allegations against Defendant Sterling and recommended that the case be summarily dismissed as against him. Plaintiff filed no response to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1).

This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Magistrate Judge’s recommendation that Plaintiff’s motion be construed as a voluntary dismissal. Plaintiff’s motion to dismiss Defendant Sterling (ECF No. 79) is **granted**, without prejudice. The case is recommitted to the Magistrate Judge for further pretrial handling.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

August 10, 2017